

REMARKS/ARGUMENTS

In response to the Office action dated May 13, 2004, applicant has amended the claims to overcome the various rejections. This amendment is being filed in connection with an RCE application.

Claims 1, 3-7 and 9 stand rejected under 35 U.S.C. § 102(a) as anticipated by U.S. Patent 5,638,565 to Pekar. As amended herein, the claims are patentable over Pekar.

Claim 1, as amended, is significantly different from Pekar. That claim includes the requirement of a first inflatable compartment having first and second layers connected by a strip having “substantially straight, vertically extending sides.” Such a straight, vertically extending side 19 is shown in Fig. 1 of the present application. Pekar, on the other hand, as construed by the Examiner in the present Office action, has curved sides. In fact, Pekar stresses the “hourglass configuration” of its structure. Col. 2, line 10. The only exception seems to be the embodiment of Fig. 9, but even in that embodiment the sides are not straight and vertically extending. Instead they are curved and appear to be disposed at roughly a 60 degree angle with respect to horizontal.

In addition, claim 1 requires that the second inflatable compartment have a “vertical extent substantially less than the height of the first inflatable compartment.” This feature is illustrated most clearly in Fig. 5A of the present application. This feature is also described in paragraph 28 of the present application, which states: “It is preferred that first compartment 13 be somewhat taller, when inflated, than second compartment 21.” In contrast, the inflatable compartments of Pekar are all of exactly the same height.

This claimed feature results in a pillow-top mattress, which is completely lacking from Pekar.

Claim 1, as amended herewith, is allowable for all these reasons.

The distinctions between these claims and Pekar pointed out in the previous amendment are still present as well.

Claims 3-10 relate back to claim 1 and are allowable therewith.

Some of the claims are also rejected over Pekar in view of Reed (2604641) or Chung (6332760) but neither of these patents discloses the second feature (different heights for the two compartments). The complete absence of the second feature from the art highlights the patentability of these claims.

In addition, nothing in these references provides any motivation to combine them with Pekar to provide the first (straight, vertically extending sides). Given the stress in Pekar of the functional advantages that flow from the hourglass shape, the proper combination of these references with Pekar would provide not straight, vertical sides (as claimed), but rather curved sides as shown in Pekar. The dependent claims (and claim 1) are allowable for all these reasons.

Claim 11 is an independent claim that stands rejected under § 103 over Pekar in view of Reed. This claim, like claim 1, includes the requirement that the first inflatable compartment have “substantially straight, vertically extending” sides. As discussed above, this feature is absent from this art. Moreover, claim 11 as amended provides that the “first and second inflatable compartments [have] substantially different heights”. This is similar to the requirement of claim 1 that the height of the first compartment is

substantially more than the height of the second compartment. None of the references show this. The compartments in Reed, like those in Pekar, are all substantially the same height.

Claims 12-14 depend from claim 11 and are allowable therewith.

Claim 15 is another independent claim that is rejected over Pekar. Claim 15 contains the requirment that the second inflatable compartment has a "vertical extent substantially less than the height of the first inflatable compartment." As discussed above in connection with claims 1 and 11, this feature is totally missing from the cited art. Claim 15 is allowable over Pekar. Moreover, Reed and Chung do not add the features missing from Pekar. Claim 15 is allowable over all this art. Claims 16 and 18-20 depend from claim 15 and are allowable for the same reasons as that claim.

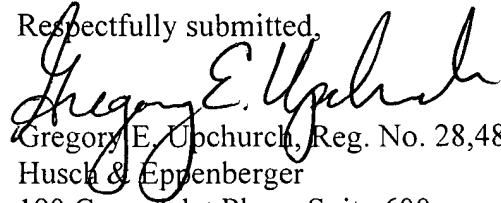
In view of the above, all the rejections have been successfully overcome.

The Director is hereby authorized to charge any fees which may be required by this paper to Deposit Account No. 08-3460.

Applicants respectfully request that a Notice of Allowance of claims 1, 3-16 and 18-20 (all the claims pending in this case) be issued.

Appl. No. 10/032,872
Amendment dated november 15, 2004
Reply to Office Action of May 13, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregory E. Upchurch". The signature is fluid and cursive, with the first name "Gregory" being more legible than the last name "Upchurch".

Gregory E. Upchurch, Reg. No. 28,482
Husch & Eppenberger
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
314-480-1854
Fax: 314-480-1505